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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

PARTON, KEVIN S

ART UNIT	PAPER NUMBER
2153	18

DATE MAILED: 07/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/664,148

Applicant(s)

RACIBORSKI ET AL.

Examiner

Kevin Parton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☒ Claim(s) 22-24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 16.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 04/26/2004 have been fully considered but they are not persuasive. Please see the following reasons and the grounds of rejection below.
2. The applicant argues that the reference to Knauerhase et al. (USPN 6,345,303) does not teach a system wherein transfer qualities from the client are determined and the selection of a server is not based on transfer quality factors relating the client to the first and second content sources. The argument is not persuasive for at least two reasons. First, the proxy of the reference can be referred to as the client. It is making the request and receives the response en route to the client (column 8, lines 24-30). In this sense, the proxy of the reference provides all the functions of the instant claim. Second, the selector of the reference does select based on transfer quality factors from the client to the source. Specifically, as shown in figure 2, the proxy selects a path beyond to proxy to a source based on transfer quality; this is necessarily a part of a path between the client and the source. The claim does not state that the full path between a requesting client and the source be considered.
3. Regarding claim 16, the applicant further argues that the reference to Knauerhase et al. (USPN 6,345,303) does not teach ranking first and second transfer nodes based on storage capacity. The argument is not persuasive because the reference does teach this limitation. Specifically, the selector of the reference will select a source, which is analogous to a ranking of two sources of

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only two sources are available. Further, part of the selection may be based on load status of the source. Load status is analogous to storage capacity.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Knauerhase et al. (USPN 6,345,303).

6. Regarding claim 1, Knauerhase et al. (USPN 6,345,303) teach a system for increasing transfer quality on a content distribution system, the distribution system comprising a client computer and a selector with means for:

- a. Determining a first transfer quality factor relating the client computer and a first source, the first source identified by a first identifier (column 6, lines 63-65; column 7, lines 3-8, 27-33).
- b. Determining a second transfer quality factor relating the client computer and a second source, the second source identified by a second identifier, wherein at least one of the first and second sources caches a content object that originates elsewhere

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(column 6, lines 63-65; column 7, lines 3-8, 27-33; column 3, line 65-column 4, line 4).

- c. Providing a preference to the selector, wherein the preference is based on the first and second transfer quality factors, the preference comprising at least one of the first and second identifiers (figure 2; column 7, lines 27-33).
- d. Automatically selecting one of the first source and the second source with the selector to supply the content object requested by the client computer, wherein the selecting step is based at least in part on the preference (figure 2; column 7, lines 27-33).

7. Regarding claim 2, Knauerhase et al. (USPN 6,345,303) teach all the limitations as applied to claim 1. They further teach means for identifying the first and second sources (column 6, lines 63-65; column 7, lines 3-8).

8. Regarding claim 3, Knauerhase et al. (USPN 6,345,303) teach all the limitations as applied to claim 1. They further teach means for providing the first and second identifiers to the client computer (column 6, lines 63-65; column 7, lines 3-8).

9. Regarding claim 4, Knauerhase et al. (USPN 6,345,303) teach all the limitations as applied to claim 1. They further teach means wherein the determining a first quality factor includes performing a plurality of tests (column 7, lines 27-41).

10. Regarding claim 5, Knauerhase et al. (USPN 6,345,303) teach all the limitations as applied to claim 4. They further teach means for using a weighting

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function to weight the plurality of tests to determine the first transfer quality factor (column 7, lines 27-41).

11. Regarding claim 6, Knauerhase et al. (USPN 6,345,303) teach all the limitations as applied to claim 5. They further teach means wherein the weighting function is defined by a user of the client computer (column 7, lines 27-41). Note that at some point, a user had to determine the selection criteria.

12. Regarding claim 7, Knauerhase et al. (USPN 6,345,303) teach all the limitations as applied to claim 1. They further teach means wherein the selected source is a transfer node, wherein the transfer node comprises a content object dynamically transferred from an originating source and made available to the client computer (column 7, lines 3-8, 39-41).

13. Regarding claim 8, Knauerhase et al. (USPN 6,345,303) teach all the limitations as applied to claim 1. They further teach means for displaying the preference to the user of the client computer (column 7, lines 27-41).

14. Regarding claim 9, Knauerhase et al. (USPN 6,345,303) teach a system for allowing a client to guide selection of a content object source with means for:

- a. Identifying a first and second source, wherein at least the first source being capable of requesting a content object from an originating source in response to an earlier request for the content object of the client (column 6, lines 63-65; column 7, lines 3-8, 27-41; column 3, line 65 - column 4, line 4)

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- b. Analyzing transfer quality between the client and the first source, and between the client and the second source (column 7, lines 27-41).
- c. Ranking the first and second sources based on the analyzed transfer qualities (column 6, lines 63-65; column 7, lines 3-8, 27-41; column 3, line 65-column 4, line 4).
- d. Using the ranking to guide selection of the content object source, whereby the selected content object source is one of the first source, the second source, or a third source (column 7, lines 27-41).

15. Regarding claim 10, Knauerhase et al. (USPN 6,345,303) teach all the limitations as applied to claim 9. They further teach means for transferring the ranking to a selector, the selector selecting the content object source partially based on the ranking, and the selector indicating the selected content object source to the client (figure 2; column 6, lines 63-65; column 7, lines 3-8, 27-41; column 3, line 65-column 4, line 4).

16. Regarding claim 11, Knauerhase et al. (USPN 6,345,303) teach all the limitations as applied to claim 9. They further teach means wherein the analyzing transfer quality includes performing a plurality of tests (column 7, lines 27-41).

17. Regarding claims 12, Knauerhase et al. (USPN 6,345,303) teach all the limitations as applied to claims 9, respectively. They further teach means wherein the analyzing transfer quality includes performing at least one of

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traceroute, test via file transfer, server health check, server load check, ping, path difference, BGP routing information, churn rate, or port response time (column 7, lines 27-41).

18. Regarding claim 13, Knauerhase et al. (USPN 6,345,303) teach all the limitations as applied to claim 9. They further teach means for requesting a content object from the selected content object source and receiving the content object (column 7, lines 27-41).

19. Regarding claim 14, Knauerhase et al. (USPN 6,345,303) teach all the limitations as applied to claim 13. They further teach means wherein the receiving the content object includes pre-fetching a portion of the content object (column 7, lines 27-41).

20. Regarding claim 15, Knauerhase et al. (USPN 6,345,303) teach all the limitations as applied to claim 13. they further teach means wherein the receiving the content object includes at least one of: decompressing the content object, decrypting the content object, or performing a security check of the content object (figure 2; column 6, lines 63-65; column 7, lines 3-8, 27-41; column 3, line 65-column 4, line 4).

21. Regarding claim 16, Knauerhase et al. (USPN 6,345,303) teach a system for selection of a transfer node influenced by a client preference with means for:

- a. Identifying a first transfer node and a second transfer node to the client (column 6, lines 63-65; column 7, lines 3-8).
- b. Ranking the first and second transfer nodes by the client, the ranking forming a client preference and based at least in part on

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a storage capacity of the transfer node (column 6, lines 63-65; column 7, lines 3-8, 27-41; column 3, line 65-column 4, line 4).

- c. Selecting one of the first or second transfer nodes based on the client preference (column 6, lines 63-65; column 7, lines 3-8, 27-41; column 3, line 65-column 4, line 4).
- d. Requesting transfer of a content object from the selected transfer node (column 6, lines 63-65; column 7, lines 3-8, 27-41; column 3, line 65-column 4, line 4).

22. Regarding claim 17, Knauerhase et al. (USPN 6,345,303) teach all the limitations as applied to claim 16. They further teach means wherein the client preference is created by analysis of a transfer quality between the client and the first transfer node and between the client and the second transfer node (column 7, lines 27-41).

23. Regarding claim 18, Knauerhase et al. (USPN 6,345,303) teach all the limitations as applied to claim 17. They further teach means wherein the analysis of transfer quality includes performing at least two tests (column 7, lines 27-41).

24. Regarding claim 19, Knauerhase et al. (USPN 6,345,303) teach all the limitations as applied to claim 16. They further teach means wherein the selected transfer node is the content object source (column 7, lines 27-41).

25. Regarding claim 20, Knauerhase et al. (USPN 6,345,303) teach all the limitations as applied to claim 16. They further teach means wherein the selecting of one of the first or second transfer nodes is done by a third transfer

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node (column 6, lines 63-65; column 7, lines 3-8, 27-41; column 3, line 65-column 4, line 4).

26. Regarding claim 21, Knauerhase et al. (USPN 6,345,303) teach all the limitations as applied to claim 1. They further teach means wherein the first transfer quality factor comprises an ability of the first source to receive a content object from an originator (column 7, lines 27-41).

Allowable Subject Matter

27. Claims 22-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

28. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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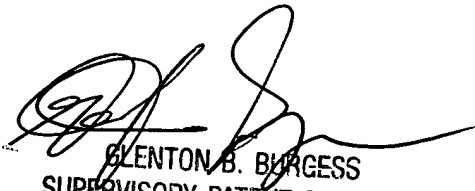
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Parton whose telephone number is (703)306-0543. The examiner can normally be reached on M-F 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (703)305-4792. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kevin Parton
Examiner
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